

### **REMARKS**

Favorable reconsideration and allowance of this application are requested.

#### **1. Response to Restriction Requirement**

The Examiner has required restriction between the claims of Groups I, II and III, respectively, and has asserted that:

“[The pending claims] lack the same or corresponding special technical features for the following reasons: compositions of Claims 1-2 of Group I, are anticipated by Cyr et al (US 6455620 claim 1 col 19-20).” Official Action at page 2, penultimate paragraph.

In response, Applicants hereby elect for further prosecution the invention defined by Group I, including claims 1-8 down to oxygen scavenging compositions.

The Applicants' election of Group I claims is however made with traverse. Specifically, as will become evident from the discussion below, the amendments presented herewith establish novelty over Cyr et al and thus renders moot the Examiner's allegations of anticipation.

Applicants note in this regard that the amended claims are in fact novel over Cyr et al. In the Written Opinion of the International Searching Authority (copy attached as Exhibit A), the claims as filed were regarded novel over Cyr et al. The European Patent Office also has acknowledged novelty with respect to Cyr et al and the patent has been granted with the claims as filed.

Furthermore, it should be observed that Cyr et al discloses polyethers containing polymers for oxygen scavenging, which include unsubstituted poly(alkylene glycol) having an alkylene chain of 1 to 3 carbons (see page 4, lines 17-21 of Cyr et al). This

does not include polyoxy-1,2-propanediyl, as this molecule is a substituted polypropylene oxide.

Only in Comparative Example 36 of Cyr et al is poly(propylene glycol) employed. However, it is not employed in combination with polymer segments.

In view of the above, therefore, applicants suggest that the claims as presented herewith are in fact novel and patentably unobvious over Cyr et al. As such, withdrawal of the restriction requirement and early passage of all claims to allowance are solicited.

## **2. Information Disclosure Statement**

Applicants request consideration of copending and commonly owned US Patent Application Serial No. 10/582,909 filed on September 6, 2006 and published as US 2007/0138435 which may be deemed related to the subject application. Fortunately, Examiner Greso is examining both the subject application and the '909 application.

An appropriate form listing the published application is also attached for the Examiner's convenience. It is requested that the Examiner return an initialed copy of such form indicating his consideration of the '909 application with the next Official Communication.

It is not believed that a fee is required in order to ensure consideration of the '909 application since an action on the merits of the subject application has not yet been issued. However, if the Examiner deems otherwise, he is authorized to charge the appropriate fee pursuant to the fee authorization statement below.

## **3. Fee Authorization**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed

**STROEKS et al**  
**Serial No. 10/582,910**  
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herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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